



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

September 17, 2007

Bryan Arroyo
Acting Assistant Director for Endangered Species
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, D.C. 20204

Dear Mr. Arroyo:

The Office of Pesticide Programs (OPP), U.S. Environmental Protection Agency (EPA), respectfully requests the initiation of Endangered Species Act (ESA) section 7(a)(2) formal consultation under 50 CFR Part 402.46 (Optional Formal Consultation Procedures for FIFRA Actions) and 50 CFR Part 402.47 (special consultation procedures for complex FIFRA actions). This consultation request addresses the potential effects of pesticides registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) containing the active ingredient atrazine to three listed freshwater mussels: fat pocketbook pearly mussel (*Potamilus capax*), purple cat's paw pearlymussel (*Epioblasma obliquata obliquata*), and the Northern riffleshell (*Epioblasma torulosa rangiana*). The scope of this assessment is consistent with a settlement agreement that involved litigation brought by the Natural Resources Defense Council against the federal government under the ESA.

Based on our assessment, the use of atrazine is not likely to adversely affect (NLAA) the Purple cat's paw pearlymussel. However, atrazine is likely to adversely affect (LAA) the Fat pocketbook pearly mussel and the Northern riffleshell. This LAA determination applies only to populations of the Fat pocketbook and Northern riffleshell that are located in highly vulnerable watersheds with stream flow < 200 ft³/sec or for which no data on stream flow are available. Further analysis of the Atrazine Ecological Monitoring Program (AEMP) data is required to determine the degree to which these data are representative of other watersheds within vulnerable areas where the fat pocketbook and Northern riffleshell mussels occur. If the analysis suggests that the AEMP monitoring data are representative of atrazine concentrations in vulnerable watersheds where these listed mussels occur, the effects determination will remain as "LAA." However, if further analysis reveals that the AEMP monitoring data are not representative of atrazine concentrations in vulnerable watersheds where these listed mussels occur, the effects determination will be revised to reflect that analysis.

This assessment was conducted consistent with the scientific procedures outlined in the Agency's Overview Document¹ and reviewed by the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service.² The effects determination was made by staff in the Environmental Fate and Effects Division (EFED) within OPP who have been trained by FWS and certified to make effects determinations. Further, the attached assessment and effects determination has undergone review by our internal Peer Review Panel, which included one or more reviewers also trained by FWS and certified to make effects determinations. As you are aware, after having carefully reviewed the Overview Document, FWS concluded that EPA's ecological risk assessment process "will produce effects determinations that reliably assess the effects of pesticides on endangered and threatened species [] and critical habitat pursuant to Section 7 of the [ESA] and [its] implementing regulations", and that "this approach also will produce all information necessary to initiate formal consultation where appropriate."

As agreed to in the past, the subject assessment and effects determination and appendices may be accessed by your staff from our Web site at <http://www.epa.gov/oppfead1/endanger/effects>. Please let me know if you have any questions regarding this request or the materials we have developed to initiate this consultation.

Sincerely,

/original signed by A. Williams, 9/17/07/

Arthur-Jean B. Williams, Acting Director
Environmental Fate and Effects Division (7507P)

cc: Debra Edwards
Steven Bradbury

¹ U.S. EPA. 2004. Overview of the Ecological Risk Assessment Process in the Office of Pesticide Programs. Office of Prevention, Pesticides, and Toxic Substances. Office of Pesticide Programs. Washington, D.C. January 23, 2004.

² USFWS/NMFS. 2004. Letter from USFWS/NMFS to U.S. EPA Office of Prevention, Pesticides, and Toxic Substances. January 26, 2004. (<http://www.fws.gov/endangered/consultations/pesticides/evaluation.pdf>)